

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NORRIS W. JACKSON,

Defendant.

Case No. 94-cr-30131-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on Defendant Norris W. Jackson's Motion (Doc. 161) to Reduce Sentence. The Defendant's Motion is not properly titled and was directed to chambers instead of properly filed with the Court. The Court filed the defendant's correspondence as a motion to reduce sentence under 18 U.S.C. § 3582(c) based United States Sentencing Guideline Amendment 782; however, upon further review, the relief requested in Defendant's motion is only available through 28 U.S.C. § 2255.

The Court is hesitant to construe this as a § 2255 motion without a clear indication that Mr. Jackson intends to invoke that statute. "[T]he court cannot so recharacterize a pro se litigant's motion as the litigant's first § 2255 motion unless the court informs the litigant of its intent to recharacterize, warns the litigant that the recharacterization will subject subsequent § 2255 motions to the law's 'second or successive' restrictions, and provides the litigant with an opportunity to withdraw, or to amend, the filing." *Castro v. United States*, 540 U.S. 375, 377 (2003).

Further, this would not be the petitioner's first § 2255 motion. *See, Jackson v. United States of America*, 97-cv-00803-PER. If the Court were to construe Defendant's motion as a §

2255 petition, then Court would be without jurisdiction to consider it as a successive petition unless the Seventh Circuit Court of Appeals certifies the successive petition pursuant to 28 U.S.C. § 2255(h). *Curry v. United States*, 507 F.3d 603, 604 (7th Cir. 2007); *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1996), which the defendant has not done in this case.

Therefore, Plaintiff's Motion (Doc. 161) to Reduce Sentence is **DENIED** as the relief he seeks is only available through 28 U.S.C. § 2255. The Court **CAUTIONS** the Defendant to ensure that all motions are properly filed with the Clerk of Court and that the Court will not accept future correspondence directed to Chambers.

IT IS SO ORDERED.

DATED: 6/16/2016

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE